



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: TMC Incorporated

File: B-238754

Date: June 14, 1990

Michael J. Stoll, for the protester.
Sam Besachio, Office of Administration, Federal Labor
Relations Authority, for the agency.
Robert A. Spiegel, Esq., and Andrew T. Pogany, Esq., Office
of the General Counsel, GAO, participated in the
preparation of the decision.

DIGEST

Contracting agency may properly decide in favor of lower cost proposal which it reasonably found to be technically acceptable where the protester's proposal and awardee's lower cost proposal for computer maintenance services were reasonably determined to offer essentially equal technical competence.

DECISION

TMC Incorporated protests the award of a contract to SYCOM, Inc., under request for proposals (RFP) No. FLRA-90-0991, issued by the Federal Labor Relations Authority as a small business set-aside for maintenance of automated data processing (ADP) equipment. TMC contends that SYCOM's technical proposal failed to demonstrate compliance with certain RFP technical requirements and that TMC should have received the award as the higher technically rated offeror.^{1/}

^{1/} In its initial protest, TMC also argued that SYCOM was not a responsible contractor under the general responsibility standards of Federal Acquisition Regulation (FAR) § 9.104 (FAC 84-39). In its comments to the agency report, TMC failed to pursue this protest ground, and we deem it abandoned. See TM Sys., Inc., B-228220, Dec. 10, 1987, 87-2 CPD ¶ 573. For the same reason, we dismiss TMC's other initial allegation (also abandoned) that SYCOM did not qualify as a manufacturer or regular dealer under the Walsh-Healey Act.

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We deny the protest.

The RFP contemplated the award of a firm, fixed-price contract for ADP maintenance services in the 1990 fiscal year (plus four 1-year options). The solicitation's statement of work (SOW) required the maintenance (labor and parts) of four automation systems. One of the four automation systems to be maintained was a Wang VS7110. The RFP required maintenance services to be performed by personnel "experienced with Wang equipment." Section C.4.2 of the SOW specified that "all customer engineers performing work under this contract shall possess a minimum of two (2) years experience on equipment which has been in production for two (2) or more years," and that "the contractor shall provide evidence of its ability to supply personnel, both in numbers and experience." Section C.4.4 of the SOW also required the contractor to maintain a sufficient stock of spare parts to ensure the provision of services. The solicitation stated that award would be made to that offeror with the "best overall response," which was defined as the technically superior proposal with a realistic estimated cost. Although technical factors (personnel experience, parts availability, and organization and management) were to be given greater weight, cost was to be determinative in the event that two or more proposals were judged to be substantially equivalent.

After receipt of proposals, TMC was ranked first, and SYCOM was ranked second, but their technical proposals were deemed essentially equal by the evaluation panel which concluded that both firms had addressed all of the important factors. As much as it was favorably impressed with TMC's past performance as an incumbent, the panel was equally persuaded that SYCOM was a responsible contractor and that its staff was qualified to perform the work. Given the technical equivalence of these two offerors, the agency awarded the contract to SYCOM based on its significantly lower price. This protest followed.

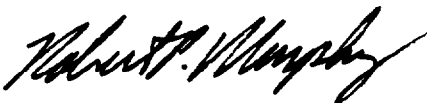
TMC essentially alleges that SYCOM failed to demonstrate in its proposal that it has the personnel possessing 2 years of experience in servicing a Wang VS7110 system as well as possessing the necessary spare parts. The protester claims that in finding SYCOM to be technically acceptable, the agency disregarded various solicitation provisions.

The contracting agency must evaluate proposals in conformance with the evaluation criteria stated in the solicitation to determine which proposal best meets its needs. Our Office will review the selection process to

determine if the selection was reasonable under the circumstances and in conformance with the evaluation criteria, applicable statute or regulation. See METIS Corp., 54 Comp. Gen. 612 (1975), 75-1 CPD ¶ 44.

Our review of the record shows that SYCOM submitted nine employee resumes in its technical proposal which the agency reasonably determined to be sufficient to support its systems. While SYCOM's personnel did not have specific experience with the Wang VS7110 system, the record shows that the resume of SYCOM's program manager showed the necessary experience with a similar Wang system. Further, the other resumes indicated that SYCOM's personnel also had extensive experience (over many years) with similar, although not identical, equipment, including Wang equipment. Accordingly, we think that the agency reasonably found SYCOM's proposal to be acceptable. Concerning parts and inventory, the record shows that SYCOM unequivocally offered to comply with all requirements and took no exception to any requirements. Moreover, since SYCOM received a total score of 34 points and the protester 35.3, we find reasonable the agency's determination that the two proposals were essentially equal from a technical standpoint and that award be made based on price. The protester has failed to show otherwise.

The protest is denied.


for James F. Hinchman
General Counsel